

# East Longmeadow Zoning Board of Appeals

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November 4, 2013

Present were: Chair, Mark Beglane; Vice Chair, John Garwacki; Clerk, Charles Gray, Alfred Geoffrion, Frances Dean and Associate, Michael Carabetta.

## Public Hearing – Steven Taylor, 135 Smith Avenue

Mr. Beglane said that in order for the applicant to be successful there has to be a 4 out of 5 vote and explained the procedures of the meeting. He asked the applicant to state his name and address and state why he is there that evening.

Mr. Garwacki read the legal notice and correspondence into the record. An abutter Frank Vechiarelli wrote a letter stating the following:

As owner of property at 125 Smith Avenue and a resident of East Longmeadow I feel that the above variance should be denied. There is already too much building on this property.

Steven Taylor, 135 Smith Avenue said that they have a sunroom at the rear of their property and approximately 2 years ago it was destroyed by a tree due to a tornado. He said that they would like to build a new sunroom in a different location because there used to be a wooded area in the back of their yard that has been cleared for a new house. Mr. Taylor said that the clearing took the canopy away from the back of their house and when it rains it floods their property and has cost them a significant amount of money to get a drainage system in their cellar because it was constantly being flooded and the sunroom was also water damaged.

Aaron LaPorte, Contractor said that there is a large water collection behind Mr. Taylor's house.

Mr. Beglane asked Mr. Taylor what he was going to do with old sunroom. Mr. Taylor said that they are not going to anything with it because to get in there remove would cost thousands of dollars. He said that a limb from a neighbors tree that hangs over onto his property fell onto to his sunroom and destroyed it and that the insurance company would not cover the cost to remove it and that is why they want to put it in the front.

Mr. Gray asked Mr. Taylor if he had any pictures of the damage. Mr. Taylor said he has a receipt for what he paid from the damage.

Mr. Beglane asked Mr. Taylor if he was going to leave the existing sunroom the way it is.

Mr. Beglane asked if the sunroom is currently on a slab. Mr. Taylor said yes it is.

Mr. LaPorte said that the new room would be on an elevated deck with a continuous foundation and being off the ground it would not have any of those issues. He said if it was off the front of the house it would be free of any kind of water damage.

Mr. Beglane asked if the \$15,000 quote was just to fix the sunroom. Mr. Taylor said yes and said also paid \$4,000 to fix the drainage in the basement. Mr. Beglane asked Mr. Taylor how long he had the water the problem. Mr. Taylor said that it started happening once the new house was put in behind them. Mr. Beglane asked Mr. Taylor if he approached the neighbor about the problem. Mr. Taylor said yes he did and they said that they installed black plastic piping that would be directed away from their house. Mr. Beglane asked Mr. Taylor where the water goes.

Mr. LaPorte said when it comes off those two yards down the hill to the back of the house it goes around the house down to the street, eventually it goes away.

Mr. Beglane asked Mr. Taylor how long has he had that problem. Mr. Taylor said that it has been over ten years. Mr. Beglane asked Mr. Taylor what he is going to with the room, just leave it? Mr. Taylor said that they can use as it as a storage area. Mr. Beglane said that he does have some concern because they are so far exceeding the numbers allowed and they are already over the limit. Mr. Beglane said that he has a room that is not useable because it floods but Mr. Taylor wants to keep it and wants to extend the deck. Mr. Taylor said that he can't afford to remove the room because he is on a fixed income. Mr. Beglane said that he understands and he concerned about using it and having living space there.

Mr. Geoffrion said that it would make more sense to put a drainage system across the back and get the neighbor to contribute to it to alleviate the flow into his house.

Mr. LaPorte said there were a lot of seal failures caused by the tree falling the sunroom and it now is not economically viable to heat or cool it.

Mr. Beglane asked Mr. Taylor if he could claim on it on his insurance. Mr. Taylor said that the insurance company denied him and said he would have to remove that foundation if he removes the sunroom and they would not pay for that. He said in fact they went to the Building Inspector and the Building Inspector said that he could build on that slab.

Mr. LaPorte said that they deemed it good enough to build a new room on top of it even though they said in the past they didn't want Mr. Taylor to put the room there.

Mr. Beglane asked Mr. Taylor if he challenge the insurance company on that at all. Mr. Taylor said that he did and the they went to the Building Inspector and he said because it was a non-conforming and it doesn't meet code, he can build on it. Mr. Beglane said he had a variance to build on it in the past and he can continue to build within the footprint of what he had. Mr. Taylor said the insurance company refused to pay for the rebuilding of the foundation.

Ms. Macdonald asked Mr. Taylor if he told her that the insurance company provided him money to replace his sunroom and that was why they had to move really quickly. Mr. Taylor said yes in another location and that is why they are trying to move quickly. Mr. LaPorte said there is a December 15<sup>th</sup> deadline. Ms. Macdonald said because it was two years ago. Mr. LaPorte said to Mr. Taylor's credit he had tried to deal with their Hartford location and coincidentally they were having some difficulty with their manager at that location and ultimately that location ended up closing causing huge delays.

Mr. Beglane asked Mr. Taylor if they are saying the slab is defective. Mr. Taylor said the slab is not to code. Mr. Beglane asked what does that means. Mr. LaPorte said that the slab is 30 years old and said that they have a lifetime warranty on their product because the wording in their contracts says they can't guarantee against pre-existing conditions. He said if something where to happen such as erosion underneath the slab or the ground heaved and it broke and because damage to the room Mr. Taylor would be responsible for a 100% of the damage. Mr. Beglane said that he has never heard of a slab not being up to code and he can understand the age of it being an issue. Mr. LaPorte said that the slab doesn't have a footing, it is not pinned to the house and it creates a huge issue with ground heaving. Mr. Beglane asked how long was that sunroom there.

Mr. Taylor said probably about 20 years and said the other problem with removing it is that they have a lot of landscaping and equipment can't get in there without destroying everything. Mr. Beglane asked if the existing structure is going to be totally removed because coverage is supposed to be 25% of the home and they are going from 31% to 35%. Mr. Beglane said that Mr. Taylor was granted a variance before where as if they take one away and put the other in it sort of comes out as a wash. Mr. Taylor said he had a gazebo that was demolished by a tree during the hurricane and asked if that could be used as part of the structure. Mr. Beglane said no it's not part of the structure and said it is part of his house, it's attached to his home. He said if they took off the sunroom and left the slab there and closed off the door then the slab would be next to his house.

Diane Taylor, 135 Smith Avenue said that it would be very costly to have equipment go in and demolish the whole room. Ms. Taylor said that the trees are also an issue and they are not their trees and that's what hit it. Mr. Beglane said that it seems to him that the insurance company would pay to take the sunroom out. He said he they won't allow them to build it in the same location but it seems to him that they should pay to remove it. Mr. Beglane said that he is not sure what their insurance is and they may not have had adequate insurance, that is another issue.

Mr. Taylor said that he has replacement cost on his insurance but they will not pay for him to remove the foundation which is about \$10,000. Mr. Beglane said that he doesn't necessarily need to but if he removes the old sunroom itself it seems to him that would be part in parcel even if he was going to build on it. Mr. Taylor said just to remove that sunroom is going to cost a lot of money. Mr. Beglane said right and asked isn't that covered by his insurance. Mr. Taylor said that they won't pay for a sunroom in the front and pay for the removal of the old one.

Mr. LaPorte said his issue with the foundation is not so much it's age or even really that it doesn't have the proper footing or it's not pinned to the house. He said that it's more that the lag bolts that are going down into the slab that secure room and there is no real way to get them out without severely damaging the slab. Mr. LaPorte said that concrete can't be capped with concrete because it doesn't bond and said there is going to be damage.

Mr. Beglane said that he understands and normally the insurance covers it. He asked Mr. Taylor who his insurance company is. Mr. Taylor said Mass Fair Plan. Mr. LaPorte said that Mr. Taylor had asked him to speak with his insurance company and offer his take on it and to show plans. He said that his agent said that they weren't going to cover both. Mr. Beglane said that they would have had pay to remove the old structure if he could build on that spot and then pay for the new one because they are going to replace what was lost. Mr. Beglane asked Mr. Taylor if he has actual cash value which would required him to build before they pay him. Mr. Taylor said yes. Mr. Beglane said personally he has got some concerns in terms the existing room and there are other ways to fix the drainage problem.

Ms. Taylor asked if they took that room down would they be able to put one in the front instead. Mr. Beglane said that he thinks it is palpable in terms of instead of going to the 35% lot coverage they would stay pretty much where they are now. Ms. Taylor said she worries about the trees back there and putting a new room on that end of the house.

The Board reviewed the plans submitted and Mr. Beglane suggested to the Taylor's that they submit an amended request for a variance and submit a new plan and a new hearing could get rescheduled.

Mr. LaPorte said in order for him to do a new plan and a new variance there is a lot of logistical things he has to do.

Mr. Beglane asked Mr. Taylor to confirm the variances he has received. He said one was granted in July of 1985 to get a 10 foot setback and put on a 16' x 16' addition on in the back of the house. He said in 1987 they added another bedroom on 16' x 34' to the side of their house. Mr. Taylor said that they never put a bedroom on to the side of their house. Mr. Beglane said they put a deck on instead and there is no problem with it. Mr. Beglane said that they could continue the hearing because they may not need variance because as a matter of right they may have the ability to build it on the deck as long as they don't go to the rear of the sideline. Ms. Macdonald said that she explained that to Mr. Taylor but he doesn't want to do it there. Mr. Beglane said that they said they would do that and said that they can continue the hearing but if he gets his building

permit then Mr. Taylor can withdraw his permit. He said if the Building Inspector grants him his permit for his deck provision if he meets all the set and setbacks he probably doesn't need to come before the Zoning Board and he can withdraw his variance. Mr. Beglane said if they can build it on top of the existing deck to do so.

Mr. Taylor thanked the Board for their time and submitted a written request to withdraw the request for a variance that was witnessed by Mr. Beglane.

There being no further business the meeting was adjourned at 7:00 p.m.

For the Board

Charles Gray, Clerk